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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HERBALIST & ALCHEMIST, INC.,	:
	:
Plaintiff,	:
	:
v.	:
	:
ALURENT PRODUCTS, INC. and WILL CLARENT,	:
	:
Defendants.	:
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1:16-cv-09204-ER

**DECLARATION OF DAMIEN KIERAN IN SUPPORT OF
NON-PARTY TWITTER, INC.'S MEMORANDUM OF LAW
IN RESPONSE TO ORDER TO SHOW CAUSE**

Damien Kieran declares under penalty of perjury that the following is true and correct:

1. I am Senior Legal Counsel at Twitter, Inc. ("Twitter"). I have access to and reviewed Twitter's records with respect to this matter. Therefore, the facts and statements below are based on my personal knowledge.

2. Twitter operates a global Internet platform for public self-expression and conversation in real time. Twitter does not itself create content, but has democratized content creation and distribution by providing automated tools that allow people to consume, create, distribute and discover content.

3. Twitter's service can be accessed at twitter.com on a variety of mobile devices and via SMS. Users with a Twitter account can use Twitter's automated systems to post "Tweets"—messages of 140 characters or less, sometimes with pictures or video—to anyone who has chosen to "follow" that user. In turn, those followers may use Twitter's automated

systems to "retweet" those messages to their own followers. Users can use hashtagged (#) keywords in their Tweets to facilitate searching for messages on the same topic.

4. Each day, Twitter users utilize Twitter's automated platform to send and receive hundreds of millions of Tweets touching on every conceivable topic ranging from political issues to personal anecdotes. Twitter users create these Tweets and without involvement or review by Twitter.

5. Before users can post using Twitter's platform, they must agree to comply with Twitter's terms of service, available at <https://twitter.com/en/tos>, which include a statement that users are solely responsible for the Content that they provide and are expected to comply with applicable laws, rules and regulations and respect the intellectual property rights of others.

6. Twitter's records show that the Twitter account @herbalalchemis was created in June 2016. Apart from Defendants' acceptance of Twitter's Terms of Service, Twitter has no legal relationship with either Defendant Alurent Products, Inc. or Will Clarent.

7. Since March 8, 2017, Twitter has not communicated with Defendants or taken any actions with respect to Defendants' Twitter account.

Executed on: August 7, 2017
San Francisco, California



Damien Kieran